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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. *2013 - 236*

12 **JAMES OWEN PERRY JR.**
2217 SE 8th Drive
13 Renton, WA 98055

A C C U S A T I O N

14 **Registered Nurse License No. 570841**

15 Respondent.

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17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 2. On or about August 23, 2000, the Board issued Registered Nurse License Number
22 570841 to James Owen Perry Jr. ("Respondent"). The license was in full force and effect at all
23 times relevant to the charges brought herein and will expire on September 30, 2012, unless
24 renewed.

25 **JURISDICTION**

26 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that
27 the Board may discipline any licensee, including a licensee holding a temporary or an inactive
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1 license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing
2 Practice Act.

3 4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not
4 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or
5 to render a decision imposing discipline on the license. Under Code section 2811(b), the Board
6 may renew an expired license at any time within eight years after the expiration.

7 STATUTORY PROVISIONS

8 5. Code section 2761 states, in pertinent part:

9 The board may take disciplinary action against a certified or licensed nurse or
10 deny an application for a certificate or license for any of the following:

11 (a) Unprofessional conduct....

12 (f) Conviction of a felony or of any offense substantially related to the
13 qualifications, functions, and duties of a registered nurse, in which event the record of
14 the conviction shall be conclusive evidence thereof.

15 6. Code section 2762 states, in pertinent part:

16 In addition to other acts constituting unprofessional conduct within the meaning
17 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
18 licensed under this chapter to do the following:

19 (b) Use any controlled substance as defined in Division 10 (commencing with
20 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
21 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
22 dangerous or injurious to himself or herself, any other person, or the public or to the
23 extent that such use impairs his or her ability to conduct with safety to the public the
24 practice authorized by his or her license.

25 (c) Be convicted of a criminal offense involving the prescription, consumption,
26 or self-administration of any of the substances described in subdivisions (a) and (b) of
27 this section, or the possession of, or falsification of a record pertaining to, the
28 substances described in subdivision (a) of this section, in which event the record of
the conviction is conclusive evidence thereof.

7. California Code of Regulations, title 16, section 1419 states:

(a) A renewal application shall be on the form provided by the board,
accompanied by the fee specified in Section 1417(a)(3) and required information and
filed with the board at its office in Sacramento.

(b) For a license that expires on or after March 1, 2009, as a condition of
renewal, an applicant for renewal not previously fingerprinted by the board, or for
whom a record of the submission of fingerprints no longer exists, is required to
furnish to the Department of Justice, as directed by the board, a full set of fingerprints
for the purpose of conducting a criminal history record check and to undergo a state

1 and federal level criminal offender record information search conducted through the
2 Department of Justice. Failure to submit a full set of fingerprints to the Department of
3 Justice on or before the date required for renewal of a license is grounds for discipline
4 by the board. It shall be certified on the renewal form whether the fingerprints have
5 been submitted. This requirement is waived if the license is renewed in an inactive
6 status, or the licensee is actively serving in the military outside the country.

7 (c) As a condition of renewal, an applicant for renewal shall disclose on the
8 renewal form whether, since he or she last renewed his or her license, he or she has
9 been convicted of any violation of the law in this or any other state, the United States
10 or its territories, military court, or other country, omitting traffic infractions under \$
11 300 not involving alcohol, dangerous drugs, or a controlled substance.

12 (d) As a condition of renewal, an applicant for renewal shall disclose on the
13 renewal form whether, since he or she last renewed his or her license, he or she has
14 had a license disciplined by a government agency or other disciplinary body.
15 Discipline includes, but is not limited to, suspension, revocation, voluntary surrender,
16 probation, reprimand, or any other restriction on a license held.

17 (e) Failure to provide all of the information required by this section renders
18 any application for renewal incomplete and not eligible for renewal.

19 COST RECOVERY

20 8. Code section 125.3 provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

24 FIRST CAUSE FOR DISCIPLINE

25 (Conviction of a Crime)

26 9. Respondent is subject to discipline under Code section 2761(f), in that on or about
27 October 23, 2007, in the case of *People v. James Owen Perry, Jr.* (Washington State, Muni. Ct.
28 Tukwila County, Case No. CR49447), Respondent was convicted by the Court on his plea of
guilty of violating RCW 46.61.502 (driving while under the influence of alcohol), a crime that is
substantially related to the qualifications, functions or duties of a licensed registered nurse. The
circumstances of the crime were that on or about April 28, 2007, Respondent drove a motor
vehicle while having a blood alcohol level of 0.27%. The Board was not made aware of this
conviction until Respondent renewed his license on or about April 12, 2011.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Alcohol)**

3 10. Respondent is subject to discipline under Code sections 2761(a), on the grounds of
4 unprofessional conduct as defined in Code section 2762(b), in that on or about April 28, 2007,
5 Respondent used an alcoholic beverage to an extent or in a manner dangerous or injurious to
6 himself and the public when he operated a vehicle with a blood alcohol level of 0.27%.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Conviction Involving the Consumption of Alcohol)**

9 11. Respondent is subject to discipline under Code section 2761(a), on the grounds of
10 unprofessional conduct as defined in Code section 2762(c), in that on or about October 23, 2007,
11 Respondent was convicted of a crime involving the consumption of alcohol, as more particularly
12 set forth above in paragraph 9.

13 **PRAYER**

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
15 and that following the hearing, the Board of Registered Nursing issue a decision:

16 1. Revoking or suspending Registered Nurse License Number 570841, issued to James
17 Owen Perry Jr.;

18 2. Ordering James Owen Perry Jr. to pay the Board of Registered Nursing the
19 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
20 Professions Code section 125.3; and,

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: OCTOBER 02, 2012

23 *for* LOUISE R. BAILEY, M.ED., RN
24 Executive Officer
25 Board of Registered Nursing
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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